

FILED  
**UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF MASSACHUSETTS**

JOHN FREDERICK,

Plaintiff,

v.

SKILLSOFT CORPORATION,

Defendant.

CIVIL ACTION NO.

**PETITION FOR REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, the Defendant, SkillSoft Corporation ("SkillSoft" or "Defendant"), hereby petitions this Honorable Court for removal of this action from the Suffolk Superior Court of Massachusetts to the United States District Court of Massachusetts (the "District Court"), based upon the following grounds for removal:

1. SkillSoft is a Defendant in a civil action brought against it in the Suffolk Superior Court of Massachusetts entitled *JOHN FREDERICK v. SKILLSOFT CORPORATION*, Civil Action No. 03-05756 A. Pursuant to 28 U.S.C. § 1446(a), copies of the Complaint, Civil Action Cover Sheet and other submissions in the Superior Court action are attached hereto as Exhibit A, and constitute all processes, pleadings and others served upon or by SkillSoft in this action to the present date.
2. The aforesaid Complaint was filed with the Clerk of Courts for Suffolk Superior Court on or about November 24, 2003.
3. SkillSoft was served with the Complaint on December 23, 2003. This Petition for Removal is filed within thirty (30) days after service of process. *See* 28 U.S.C. § 1446(b).

RECEIPT # 53067  
 AMOUNT \$ 150  
 SUMMONS ISSUED 1/11  
 LOCAL RULE 4.1 \_\_\_\_\_  
 WAIVER FORM \_\_\_\_\_  
 MCF ISSUED \_\_\_\_\_  
 BY DPTY. CLK. PM  
 DATE 1-12-04

MAGISTRATE JUDGE Deen

4. The above action is one over which this Court has original jurisdiction under 28 U.S.C. § 1332, and is one that may be removed to this Court pursuant to 28 U.S.C. § 1441, in that the action involves a controversy between citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

5. The Plaintiff is a resident of State of Illinois. (See Complaint ¶1). SkillSoft Corporation is a Delaware corporation and has its principal place of business in Nashua, New Hampshire. The Complaint asserts a single cause of action for breach of contract and damages in the amount of \$82,662.39, as specified on the Superior Court Civil Action Cover Sheet.

6. A copy of this Petition for Removal and a Notice of Removal have been served by Federal Express upon Plaintiff's counsel, and have been served by hand with the Clerk of the Suffolk Superior Court on January 12, 2004 for filing pursuant to 28 U.S.C. § 1446(d).

7. Pursuant to Local Rule 81.1(a), SkillSoft will file certified or attested copies of all records and proceedings in the state court action and certified or attested copies of all docket entries therein, including a copy of this Petition for Removal, with this Court within thirty (30) days after filing this Petition for Removal.

WHEREFORE, SkillSoft requests that the above action be removed to the United States District Court of Massachusetts.

Respectfully submitted,  
SKILLSOFT CORPORATION  
By its Attorney(s),



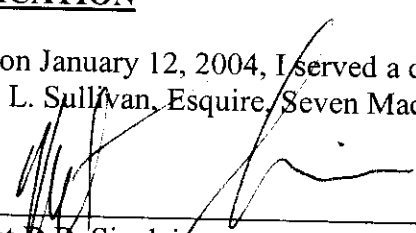
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Kent D.B. Sinclair (BBO # 639597)  
Seyfarth Shaw LLP  
Two Seaport Lane, Suite 300  
Boston, MA 02210-2028  
(617) 946-4800

DATED: January 12, 2004

**CERTIFICATION**

I, Kent D.B. Sinclair, hereby certify that on January 12, 2004, I served a copy of the foregoing document by Federal Express on John L. Sullivan, Esquire, Seven MacDonald Terrace, Scituate, Massachusetts 02066.

  
\_\_\_\_\_  
Kent D.B. Sinclair

**CIVIL ACTION  
COVER SHEET**

DOCKET NO.(S)

03-8756 A

Trial Court of Massachusetts  
Superior Court Department  
County: Suffolk

PLAINTIFF(S)

JOHN FREDERICK

DEFENDANT(S)

SKILLSOFT CORPORATION

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

John L. Sullivan, Esquire

Seven MacDonald Terrace

Post Office Box Eleven, Scituate, MA 02066

Board of Bar Overseers number 543030 Tel: 781-545-1144

ATTORNEY (if known)

**Origin code and track designation**

Place an x in one box only:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> 1. F01 Original Complaint                     | <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)                    |
| <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) | <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) |
| <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)            | <input type="checkbox"/> 6. E10 Summary Process Appeal (X)  |

**TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)**

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

A01

Services, labor, mat.

( F )

( X ) Yes

( ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

**TORT CLAIMS**

(Attach additional sheets as necessary)

- A. Documented medical expenses to date:
- |  |                   |
|--|-------------------|
| 1. Total hospital expenses .....         | \$ .....          |
| 2. Total Doctor expenses .....           | \$ .....          |
| 3. Total chiropractic expenses .....     | \$ .....          |
| 4. Total physical therapy expenses ..... | \$ .....          |
| 5. Total other expenses (describe) ..... | \$ .....          |
|  | Subtotal \$ ..... |
- B. Documented lost wages and compensation to date .....
- C. Documented property damages to date .....
- D. Reasonably anticipated future medical and hospital expenses .....
- E. Reasonably anticipated lost wages .....
- F. Other documented items of damages (describe) .....
- G. Brief description of plaintiff's injury, including nature and extent of injury (describe) .....
- TOTAL \$ .....

**CONTRACT CLAIMS**

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

Commission monies owed by Defendant to Plaintiff

TOTAL \$82,662.39....

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK,SS

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION NO.

03-0100 A

JOHN FREDERICK,  
Plaintiff

V.

SKILLSOFT CORPORATION,  
Defendant

COMPLAINT AND DEMAND  
FOR JURY TRIAL

1. John Frederick, Plaintiff in the above-entitled action (hereinafter "Plaintiff") resides at 988 Comar Drive, Lake Zurich, Illinois.
2. SkillSoft, Defendant in the above-entitled matter (hereinafter "Defendant") is a New Hampshire corporation with a business address of 107 Northeastern Boulevard, Nashua, New Hampshire 03062.
3. The Plaintiff sold product to and through an entity known as Provant. Provant at all times pertinent to the matters in this action, had its principal place of business located at Suite 500, 67 Batterymarch Street, Boston, Suffolk County, Massachusetts.
4. At pertinent and relevant times the Plaintiff was employed by the Defendant.
5. On or about January 2000 the Defendant contracted with the Plaintiff as a chanel account manager generating revenue for its company.
6. The Defendant compensated the Plaintiff in the form of base pay plus commission based upon quotas, contractual upgrades, and various incentives.
7. The Plaintiff continued his employment with the Defendant through April, 2002 selling products throughout the Commonwealth of Massachusetts.
8. However at the end of the Plaintiff's employment there remained a substantial unpaid sum of commission monies which the Defendant owed to the Plaintiff.
9. To date those commission monies and severance package which the Plaintiff earned totaling \$82,662.39 remain unpaid.

10. The Defendant accordingly has breached its contract with the Plaintiff by steadfastly refusing to provide to the Plaintiff those aforementioned monies which are owed to him, without cause.

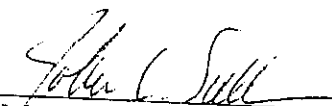
WHEREFORE, the Plaintiff prays this Honorable Court:

1. Order judgment in his favor against the Defendant in the amount of \$82,662.39;
2. Order the Defendant to pay all of the Plaintiff's costs and attorney's fees.
3. Grant such other relief as it deems fair and equitable.

PLAINTIFF DEMAND A TRIAL BY JURY.

Respectfully submitted,  
John Frederick,  
By his attorney,

Dated: November 24, 2003

  
John L. Sullivan, Esquire  
Seven MacDonald Terrace  
Post Office Box Eleven  
Scituate, Massachusetts 02066  
BBO #543030  
Tel: 781-545-1144